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Board Meeting – November 25, 2013

Architectural Access Board Office – 13th Floor, Room 1310

Present Board Members:

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Myra Berloff, Massachusetts Office on Disability (MB)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Diane McLeod, Vice Chair (DM)
- Andrew Bedar, Member (AB)
- Carol Steinberg, Member (CS)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Mark Trivett, Member (MT)

- Meeting began at 9:41 a.m.

1) **Incoming:** Love Joy Wharf, 160 North Washington St., Boston (V13-296)

TH - EXHIBIT – variance application

- spending over 30%
- Converse corporate
- seeking relief to allow open risers on 6 flights of stairs, aesthetic

MB - deny

AB - second - carries

2) Incoming: Cape Ann Savings Bank, 109 Main & 38 Rogers St., Gloucester (V13-303)

- TH - EXHIBIT – variance application
- 4 story building, each entrance at Rogers and Main Street is accessible at grade
 - over 30%
 - seeking variance for change in level between the two sections of the bank
 - ILC supports the variance with some condition
 - both entrances to each side of the bank are accessible
 - technological infeasibility argument

CS - grant, on the condition that the signage mentioned by Mr. McDuff is added; this use only
DM - second -

MB - interior stairs

TH - plans show that they can technologically not create access into both sides of the bank

CS - withdraw

DM - grant due to technological infeasible and the condition that the variance is for this use only

MB - second –

CS - what about signage about service provided?

TH - bank says that both services are available at both sides

DM - all bank services provided at both sides of the bank

MB - second amendment

- carries

3) Incoming: Life Saving Station, Short Beach, Nahant (V13-298)

- TH - EXHIBIT – variance application
- renovated over 30%
 - received call from building official, who brought the fact that it was over 30% to the Board's attention
 - all through the renovation, the plan for the building was that the second floor would be an apartment, now changed their mind and it will be public space

MB - deny

DM - second - carries

4) Incoming: Multi-Family Building, 585 East 7th St., South Boston (V13-311)

- TH - EXHIBIT – variance application
- new building, 5 units
 - 2 ground floor townhouses and 3 flats above
 - advisory opinion
 - lift to front entrance, but only to hallway at the first floor
 - 3 units or more, new construction, public and common use areas are supposed to comply

- proposing lift if it is required to be provided, seeking advisory if 10.1 applies

MB - a variance is required under the requirements of 521 CMR 10.1

DM - second – carries

TH - variance application also submitted just in case

DM - deny variance to 25.1

CS - second - carries

5) Incoming: Eagle Bank, 389 Hanover St., Boston (V13-299)

TH - EXHIBIT – variance application

- renovation of a first floor space 790 sq. ft.

- assuming spending over 30%

- level landing at the entry door will not be there

- sloped and not be more than 1:12 with an automatic door opener

MB - grant as proposed, on the condition that entrance is built as proposed

CS - second – carries

6) Incoming: Allele Building, 148-152 Dorchester Ave., South Boston (V13-297)

TH - EXHIBIT – variance application

- addition to an existing building, which was just built new as the first phase of the project

- 6 stories above grade with basement level parking

- one commercial space and 30 condos

- new construction of the condo/commercial building

- seeking an incline lift to create access between the buildings

- hallway is up 5 steps, because of slope of driveway to basement level garage

MB - is there enough room at the stair to provide the incline wheelchair lift

- designed and constructed and variance asked for after the fact that the work is done

CS - need more information about what the incline lift is used for, where it leads to, location of accessible units

TH - leads to more units

MB - second

TH - existing lot with existing constraints

MB - if it came to the Board first, before it was built, would feel better

- they need to submit more detail about what is on both sides

TH - can't flatten out the stairs because the need for the head height at the garage

- carries

7) Incoming Discussion: Sidewalk width at 7 Wyatt St., Somerville (V13-271)

- TH - EXHIBIT – pictures
- tree grate requirement seeking to be removed
- the Board decision was granted based on the installation of the tree grate

MB - deny the request and uphold previous decision; grate installed by January 1, 2014

DM - second

CS - February 1, 2014

*MB - accept February date
- carries*

8) Discussion: College Hall, 155 South St., Amherst (V13-195)

- TH - EXHIBIT – submittal of handrail sample
- seeking amendment to 521 CMR 27.4.3 and 27.4.4
- code is 2 inches, this proposal is 1/8 of an inch too big
- tolerance allows 1/8 inch, so only 1/8 of an inch beyond that tolerance

AB - grant both

MB - second – carries with DM opposed

9) Incoming Discussion: Commercial Building, 16 State St., Newburyport (V13-293)

- TH - EXHIBIT – follow-up material about winder stairs seeking variance
- still proposing variance for no vertical access between the two spaces
- they talk about accommodations

MB - grant the variance for both (winder stairs and vertical access), provided a catalog is available at the first floor and that merchandise will be brought upstairs upon request

DM - second –

CS - access into each level?

TH - no, misspoke last time

*RG - open risers at winders?
- carries with CS opposed*

RG - require that they provide solid risers on the winder stairs

MB - second - carries

10) Incoming: 11-15 Cortes St., Boston (V13-300)

- TH - EXHIBIT – variance application
- seeking variance for the lack of extension at one side of the stair
- not required based on 521 CMR 27.4 exception

DM - no variance required

MB - second – carries

DM not present

11) Incoming: Crosswalk variance for Anawan and Connector St., Fall River (V13-302)

- TH - EXHIBIT - variance application
- seeking variance for slopes of crosswalk in the road
- no jurisdiction

MB - no jurisdiction over the crosswalk slopes within the road

CS - second – carries

12) Incoming: Russian Orthodox Church, 963 South St., Roslindale (V13-295)

- TH - EXHIBIT – variance application
- renovation and addition
- spending over 30%
- multiple requests

CS - hearing

MB - second - carries

13) Discussion: Barrington Stage, 36 Linden St., (V12-190)

- TH - EXHIBIT – handrails and signage installed

MB - accept that they have met the conditions of the signage and handrails, based on submittal of photographic evidence

CS - second - carries

14) Discussion: Professional Building, 468 Merrimack St., Methuen (V12-153)

- TH - EXHIBIT – letter from owner
- seeking new deadline to comply
- in August 2012 gave a timeline extension
- now seeking until 4/1/14 to have the LULA installed
- professional building with offices
- bill for sale of the equipment on 11/12/13, also submitted pictures of equipment on site

MB - grant extension to 4/1/14, with the condition that if the LULA is not installed, inspected and ready for use by 4/1/14 then upper floors will be closed

CS - second – carries

DM now present

15) Discussion: 100 Nagog Park, 100 Nagog Park, Acton (V13-152)

- TH - in August 2013 hearing granted variance for the cross slope at the accessible parking spaces, but required compliant path of travel be provided by 12/1/13
- received letter from Petitioners stating that the walkway will not be completed by December 1, 2013
- building is empty

DM - complete the work by May 1, 2014, if it is occupied by that time and the work is not done, then a fine hearing will be scheduled
- no second

WW - should have the work started on the execution of the lease, and finished prior to the occupancy of the building

CS - have the work started on the execution of the lease, and finished prior to the occupancy of the building

MB - second - carries

16) Discussion: Scwhab Natatorium, Eagle Brook School, 3 Rice's Ferry Rd., Deerfield (V13-211)

- TH - EXHIBIT – submittal of information regarding deck pool lifts
- deck pool lifts require footings with sockets
- proposal for PAL lift

CS - require pool lift with sockets be installed

DM - second – carries

17) Incoming Discussion: Shiso Kitchen, 374 Washington St., Somerville (V13-256)

- TH - EXHIBIT – emails about portable ramps from owner and from architect about permanent fix
- they own more of the sidewalk than original thought
- August 1, 2014 for permanent fix previously ordered
- only a 4 inch change in level

MB - based on new information about the details at the front of the building, no negotiation necessary with the City of Somerville, therefore the installation of the permanent solution shall be completed by June 1, 2014, with the temporary ramp in place as previously ordered in the interim

DM - second – carries

18) Discussion: DeLuca's Market, 7-17 Charles St., Boston (V11-232)

- TH - EXHIBIT – emails from members of the neighborhood about second door being closed
- offered that two entrances would be open with automatic door openers

- has removed exterior hardware for one and made it egress only
- three doors at the face of the building
- one down to the wine cellar, which is now locked since internal stairs are used
- two other doors to the first floor, one now locked

AB - is the toilet room at the basement
TH - not sure

TH - lift is installed and has been inspected but it is blocked off
- change in level from where the lift lands, steps up into the wine cellar

MB - not maintaining accessible features

CS - isn't the main level of the store supposed to be closed until the lift was installed
TH - it's installed, but not usable

DM - effective immediately, close the business, until the automatic door opener is put on the second door, per previous decision; change in level is addressed and completed and the lift from the first the first floor is complete and usable; and the toilet room in the basement level complete
AB - second –

WW - what is the door issue?

TH - granted relief to the slopes at the doors on the condition two entrances with automatic openers at the two entrances

- cash register at the door in question which was closed

TH - historically there were cash registered at both doors
- can double-check

- no one can use that door?

TH - yes, exterior hardware removed and the door is locked
- there was a standing order, and he should have come to the Board to request a change to the previous decision of the Board

CS - went there to use the computer for the wine, but had to call to the employee from the entrance

MB - as a business owner, you can create flow throughout the store
- but should have come to the Board to ask for a change to the order
- can't shut the first floor since it is accessible, the closing of that door was a business decision to not have multiple entrances and exits, but should have come to the Board to request to change the order of the Board

TH - motion was that the first floor not to be opened until the lift was installed, inspected and in working order
- email from neighbor says that fines should be rendered by the City of Boston

- MB - once you go down the lift, there is nowhere to go since there is a change in level
- CS - what is at the lower level?
- TH - wine cellar and lift goes into unfinished portion with steps up to the main portion of the wine store
- AB - and requirement for accessible toilet room
- MB - once in the lift and down to the basement, but no access once at the basement due to change of the levels
- we can post that the wine cellar be closed, and ISD should enforce
- TH - can call Gary Moccia before we leave
- MB - immediately close the lower level
- TH - never addressed the change in level at the basement
- CS - do we let the main floor be open?
- MB - yes, since there is access to the main floor; chosen to close the second door, and again, should have asked to close the required second accessible entrance
- WW - need to work with ISD on this one
- TH - they are also seeking more permits

DM - withdraw motion

MB - based on the information received that, although the lift is installed and inspected, it is locked and does not provide usable access to the lower level; therefore, close the lower level to the public, as soon as staff can post the lower level closed, but no later than December 6th, until further notice; work with Boston Inspectional Services to both ensure the lower level is closed and maintain and enforce the closure until the required work is completed

AB - second - carries

WW not present, DM as Chair

19) Discussion: 11 North Restaurant, 11 North Water St., Edgartown (V12-206)

- TH - EXHIBIT – rejection of incline lift from the Town
- let them stay open to November 5th, currently closed for the season
- proposing lift dimension of 37 by 47 ½ inches, which is unusable
- case started with a renovation to the building, when they were told by the disability commission that they had to comply

- bulk of the restaurant is on the second floor and they were granted vertical access relief, on the condition that they do the incline lift to create access into the building
- the Town rejected it because it landed on the sidewalk
- if they put in a bigger platform, they would lose more tables at the first floor
- interference with entry door

MB - technologically infeasible?

TH - no

- can't open until they figure out a way to make this work

MB - restaurant was never accessible, although similar

TH - they did enough work to trigger the requirements for access

CS - reject the plan for the lift since too small and not usable; require that the business stay closed until access is provided to the first floor

AB - second –

MB - take the decision back to the Town and request reconsideration or appeal of the Town's decision

CS - keep motion as is, will make second motion

- carries

CS - take the decision of the Board back to the Town and ask for a reconsideration and schedule a hearing before our Board, with the Town required to appear, provided that the Town upholds its decision to continue to refuse the installation of the lift

AB - second - carries

WW now present

20) Discussion: All Newton Music School, 321 Chestnut St., Newton (V11-138)

TH - EXHIBIT – photographs of automatic openers and offset hinges

MB - accept submittal of photographic evidence

DM - second - carries

21) Incoming: Sidewalk Width, Meacham Rd., Cambridge (V13-301)

TH - EXHIBIT – variance application

- tree widths at sidewalks

- format of the application has changed, previous format included letter from Michael Muehe and language about directional signage

DM - deny and ask about format

AB - second – carries

22) Discussion: Cosmetology Shop, 139R Linden St., Wellesley

TH - EXHIBIT – new variance application
- creation of cosmetology and hair salon
- platform lift installed, platform size of the vertical wheelchair lift installed
- 34” by 54”

KS - just received, need to discuss

MB - grant

DM - second - carries

DM - waive the 2 weeks

CS - second – carries

TH - CO question, because of 2 weeks

DM - allow temporary CO

CS - second – carries

MB - should just be allowed to open with CO

AB - second - carries

23) Discussion: Warehouse Building, 22-25 Fanaras Dr., Salisbury

TH - submittal of affidavit from building owner

MB - (reads affidavit into record)

CS - accept the affidavit and require that it be recorded with the registry of deeds, for this use only

DM - second – carries

24) Discussion: Proprietors Restaurant, 9 India St., Nantucket (V13-175)

TH - EXHIBIT – follow-up photos of compliance, and copies of the reservation and booking policy
- (read policy into the record) posted at the exterior

CS - accept the submittal of policy

DM - second – carries

DM - accept the pictures

CS - second - carries

25) Incoming Discussion: Bourgeois and Leech Hall, 71 and 111 Pawtucket St., Lowell (V13-158)

- TH - EXHIBIT – seeking amendment to the original variance
- 31.7.1 and 31.7.2, shower pan will have 4% slope instead of 2% slope in 36” x 36” shower stall

MB - grant as proposed

AB - second – carries

- TH - mounting height of receptacles at exterior walls only, all other outlets will comply

AB - grant as proposed

DM - second – carries

26) Discussion: Dorm for the Disabled, 40 Chase St., Newton (V13-197)

- TH - EXHIBIT – decision from Elevator Board
- e-mail from Marc Slotnick on 11/15/13, seeking to open the building with a temporary CO while the lift work is finished, inspected and operational
- seeking until November 25, 2013 for the submittal about the second floor bathroom and kitchen
- can they have a temporary CO until the lift is installed

MB - grant the issuance of temporary CO

DM - second, but when is the lift required to be installed?

- installed, inspected and operational by 6/1/14

- TH - it will put them out of business if they cannot open since they have people ready to move in

- Carries with CS opposed

- TH - they have until today to submit information by today

DM - grant extension to submittal to November 25th for kitchen and bathroom submittal

MB - second – carries

27) Advisory Opinion: Lincoln Town Hall Building

- TH - EXHIBIT – submittal from architect
- renovated and fully accessible
- did some work on walkways
- street that goes to neighborhood behind the Town Hall
- distance at that area of walkway is 1:15, as opposed to 1:20
- they argue that since that portion is on the street, it is a sidewalk along natural topography of street

CS - no variance required since runs along natural topography of street

DM - second – carries

DM - standby previous decision

CS - second – carries

28) Discussion: Whitman Town Park, Park Ave., Whitman (C13-000)

TH - went and did site visit and met with Selectman and Town Counsel
- toured the park
- gave them time to respond to them with variance and plans for compliance
- will probably use portable lift to access the bandstand
- question is benches, but there is no language that specifically addresses benches, language is regarding tables

DM - what about access to the bench and area next to the bench

TH - nothing in the regulations now that specifically grabs benches, other than discussion about accessible route to all elements
- issue of work performed
- issue of access at the table was found to be compliant

KS - benches were installed and some replaced

TH - can required accessible route
- maybe require a percentage of the benches to be accessible
- follow the guidelines of ADA

CS - need to research benches in new federal guideline

TH - need to address benches at next meeting, send decision otherwise

ALL - yes

- End of Meeting -